

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Tax-Free Fixed Income Fund for
Puerto Rico Residents, Inc., et
al.

Plaintiffs

v.

Ocean Capital LLC, et al.

Defendants.

Civil No. 22-1101 (GMM)

OPINION AND ORDER

Before the Court is Magistrate Judge's Giselle López-Soler ("MJ") August 9, 2023 Report and Recommendation ("R&R") (Docket No. 187) regarding various claims arising under the Securities Exchange Act raised in two pending motions (Docket Nos. 122-124). For the following reasons, the Court **ADOPTS** the R&R.

I. BACKGROUND

After presiding over an argumentative hearing on August 26, 2022 (Docket No. 88) and undertaking a careful review of the record before her, the MJ issued a comprehensive and well-reasoned R&R. (Docket No. 187). The R&R recommends that Defendant's *Motion for Judgement on the Pleadings and Request for Hearing* and *Motion for Failure to State a Claim* (Docket Nos. 122-124) be granted given that Plaintiffs: (1) failed to advance convincing arguments that Defendant's amendments to their SEC filings did not render Plaintiff's claims moot, thereby stripping this Court of jurisdiction; and (2) failed to provide material evidence,

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required under a Rule 9 heightened pleadings standard, that Defendants engaged in fraud or misrepresentation. (Docket No. 187).

On August 24, 2023, Plaintiffs collectively filed an objection to the R&R. (Docket No. 190).

II. DISCUSSION

In overseeing a case, the Court may refer motions to a Magistrate Judge for review and recommendation. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); Loc. R. 72). Parties adversely affected by an R&R are then invited to “serve and file specific written objections to the proposed findings and recommendations” within fourteen days of receiving a copy of an R&R. Id.

Upon submitting a timely objection, the Court is required to review *de novo* “those portions of the report or specified proposed findings or recommendation to which specific objection is made.” Total Petroleum Puerto Rico Corp. v. Fonseca-Marrero, 2018 U.S. Dist. LEXIS 197986, 2018 WL 6131777, at *1 (D.P.R. 2018) (*quotation omitted*); see also United States v. Valencia-Copete, 792 F.2d 4 (1st Cir. 1986). In conducting this review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(a)(b)(1). In cases, like the one before the Court, where the MJ “produced a first-rate work product, a reviewing tribunal should hesitate to wax longiloquent simply to hear its own words resonate.

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Chen v. I.N.S., 87 F.3d 5, 7 (1st Cir. 1996) (*quoting In re San Juan Dupont Plaza Hotel Fire Litig.*, 989 F.2d 36, 38 (1st Cir. 1993)).

Thus, after completing an independent review of the record, the MJ's R&R, and the Plaintiff's objections to the Magistrate's recommendations, the Court **ADOPTS** the MJ's determinations and recommendations for resolving issues presented at Docket Nos. 122-124.

V. CONCLUSION

For the reasons stated above, Defendant's *Motion for Judgement on the Pleadings and Request for Hearing* (Docket No. 122) is **GRANTED**, and Defendant's *Motion to Dismiss for Failure to State a Claim* (Docket No. 123) is also **GRANTED**.

IT IS SO ORDERED.

In San Juan, Puerto Rico, September 8, 2023.

s/Gina R. Méndez-Miró
GINA R. MÉNDEZ-MIRÓ
UNITED STATES DISTRICT JUDGE